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ORIGINAL

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UNITED STATES DISTRICT COURT
DISTRICT OF OREGON
PORTLAND DIVISION

KEYGENE N.V.,

Plaintiff,

v.

FLORAGENEX, INC.,

Defendant.

No. CV '11 - 803

PK

COMPLAINT FOR PATENT
INFRINGEMENT

DEMAND FOR JURY TRIAL

By Plaintiff Keygene N.V.

Plaintiff Keygene NV ("Keygene"), for its Complaint for Patent Infringement against Defendant Floragenex, Inc. ("Floragenex"), states as follows:

JURISDICTION AND VENUE

1.

This is an action for patent infringement arising under the patent laws of the United States, Title 35 of the United States Code. The Court has subject matter jurisdiction under 28 U.S.C. §§ 1331 and 1338(a).

2.

Venue is proper in this district pursuant to 28 U.S.C. §§ 1391(b), 1391(c), and 1400(b).

1- COMPLAINT FOR PATENT INFRINGEMENT

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3.

This Court has personal jurisdiction over Floragenex, as Floragenex is incorporated in the State of Oregon.

PARTIES

4.

Plaintiff Keygene is a private company organized and existing under the laws of the Netherlands, with its headquarters and principal place of business located at Agro Business Park 90, Wageningen, Gelderland 6708 PW, Netherlands.

5.

Plaintiff Keygene was founded in 1989 by a number of Dutch vegetable seed companies and currently provides a number of genetic and genomic research services for its customers as part of its Sequence Based Breeding program. Keygene's aim is to develop novel enabling technologies and applications to support companies and institutes that carry out genetic and genomic research.

6.

Defendant Floragenex, Inc. is a corporation organized and existing under the laws of the State of Oregon. Floragenex's headquarters are located at 1900 Millrace Drive, Eugene, Oregon 94703, and its laboratory operations are located at 2828 SW Corbett Ave., Portland, Oregon 97201.

7.

Defendant Floragenex has and continues to offer infringing services that it actively markets as restriction-site associated DNA ("RAD") technology, which Floragenex offers in this judicial district and elsewhere in the United States. Upon information and belief, Floragenex performs these services at its laboratory operations located in Portland, Oregon.

CLAIM FOR INFRINGEMENT OF U.S. PATENT NO. 7,935,488

8.

U.S. Patent No. 7,935,488 ("the '488 Patent"), entitled "Selective Restriction Fragment Amplification: Fingerprinting," was duly and legally issued on May 3, 2011 by the United States Patent and Trademark Office to Plaintiff, the assignee of record of the named inventors Marc Zabeau and Pieter Vos. Plaintiff is assignee of the entire right, title and interest in the '488 Patent. A true and correct copy of the '488 Patent is attached hereto as Exhibit A.

9.

Upon information and belief, Defendant has infringed and continues to infringe one or more claims of the '488 Patent, by making, using, selling and/or offering to sell in this country (including in this judicial district), without a license, sequencing services in violation of 35 U.S.C. § 271.

10.

Upon information and belief, Defendant has been aware of the '488 Patent at least as early as May 6, 2011. Upon information and belief, Defendant's infringement of the '488 Patent has been and continues to be willful and carried out with full knowledge of the '488 Patent.

11.

Plaintiff has and will continue to be damaged by Defendant's infringement of the '488 Patent and will be irreparably harmed unless that infringement is enjoined.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff respectfully requests the following relief:

1. A judgment that Defendant has infringed the '488 patent;
2. A permanent injunction, issued pursuant to 35 U.S.C. § 283, restraining and enjoining Defendant and its officers, agents, attorneys and employees, and those acting in privity or concert with them, from infringing the '488 patent for the full term thereof;

3. An award of damages to Plaintiff, including pre-judgment and post-judgment interest, in an amount adequate to compensate for Defendant's infringement of the '488 patent, and if willful infringement is shown, treble damages pursuant to 35 U.S.C. § 284;
4. Costs and expenses in this action;
5. A declaration that this is an exceptional case and an award of attorneys' fees, disbursements, and costs of this action pursuant to 35 U.S.C. § 285;
6. Such other and further relief as the Court may deem just and proper; and

JURY TRIAL DEMAND

Keygene requests a trial by jury for all issues so triable.

DATED: June 30, 2011

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By: 

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4- COMPLAINT FOR PATENT INFRINGEMENT